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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

TODD HURVITZ, individually, and on  
behalf of all others similarly situated,

Plaintiff,

v.

FACEBOOK and LINKEDIN  
CORPORATION,

Defendants.

Case No. 2:20-cv-3400 (PA)(JPRx)

**FIRST AMENDED COMPLAINT  
FOR DAMAGES AND  
EQUITABLE RELIEF**

**CLASS ACTION**

**DEMAND FOR JURY TRIAL**

LOEVY & LOEVY  
Attorneys at Law

Pursuant to Federal Rule of Civil Procedure 15(a), Plaintiff Todd Hurvitz, by his attorneys, submits this First Amended Class Action Complaint against Defendants Facebook and LinkedIn Corporation (“LinkedIn”) (collectively, “Defendants”), on behalf of himself and all others similarly situated, and alleges, upon personal knowledge as to his own actions and his counsel’s investigations, and upon information and belief as to all other matters, as follows:

### INTRODUCTION

1. Defendant Facebook is one of the most popular social media platforms in the world. While Facebook does not charge those who use its platform, it monetizes users by collecting data about them and then using that data in connection with its targeted advertising business.

2. Defendant LinkedIn is another popular social media platform that offers free use of its services, as well as paid memberships. Like Defendant Facebook, LinkedIn monetizes customers by collecting data about them and then using that data to offer other services it sells to customers.

3. In their quest to amass increasingly detailed profiles about individual members of the public and generate increased revenues, Defendants Facebook and LinkedIn have intentionally and surreptitiously: (a) collected data from persons who logged into third-party websites or used third-party software applications (“App”)

(collectively, “third-party platforms”) that had certain Facebook or LinkedIn software development kits (“SDKs”) and/or application program interfaces (“APIs”) installed or integrated into the website or App – regardless of whether the person was a Facebook or LinkedIn member and regardless of whether the person was logged into his Facebook or LinkedIn account; (b) intercepted, and endeavored to intercept, the electronic communications between members of the public and third-party platforms; and (c) used and disclosed, and endeavored to use and disclose, the contents of the electronic communications between members of the public and third-party platforms.

4. For example, unbeknownst to members of the public who installed, opened or closed a third-party app that utilized the “Login with Facebook” feature of Defendant Facebook’s SDK for iOS (the “Login with Facebook Feature”), Facebook intentionally and surreptitiously: (a) intercepted, and endeavored to intercept, the electronic communications between the users’ devices and the third-party apps, even if the users did not have a Facebook account or were not logged into their Facebook accounts; and (b) used, and endeavored to use, the contents of the electronic communications between the users and the third-party apps. Alternatively, Facebook gained unauthorized access to the third-party apps’ servers and accessed the stored content of the electronic communications between the third-party apps and their users.

5. Similarly, unbeknownst to members of the public using third-party

platforms that utilized Defendant LinkedIn's Sales Navigator API ("Navigator"), upon logging into or opening the third-party platform, LinkedIn intentionally and surreptitiously: (a) intercepted, and endeavored to intercept, the electronic communications between the users' devices and the third-party platforms, even if the users did not have a LinkedIn account or were not logged into their LinkedIn accounts; and (b) used, and endeavored to use, the contents of the electronic communications between the users and the third-party platforms. Alternatively, LinkedIn gained unauthorized access to the third-party platforms' servers and accessed the stored content of the electronic communications between the third-party platforms and their users. LinkedIn used this information to provide members who subscribed to its Navigator service with the identities and LinkedIn profiles of users of the specified third-party platform, even if those persons took steps to conceal their identities.

6. Defendants Facebook and LinkedIn were not parties to the electronic communications at issue and engaged in their unlawful conduct without the consent or authorization of either party to the communications.

7. Defendants Facebook and LinkedIn engaged in their unlawful conduct in order to amass increasingly detailed profiles of the online public, which information they used to generate increased revenues through the sale of advertising, services and products.

1           8. Plaintiff brings this action for statutory, compensatory and punitive  
2 damages, as well as declaratory and injunctive relief, in order to: (a) require Defendants  
3 to provide monetary relief for their unlawful, unfair and deceptive conduct; (b) require  
4 Defendants to disgorge their ill-gotten gains; and (c) prevent and preclude Defendants  
5 from engaging in similar conduct in the future.  
6

7  
8                                   **PARTIES**

9           9. Plaintiff Todd Hurvitz is a California resident, residing in the Central  
10 District of California.

11           10. Defendant Facebook is a Delaware corporation, with its corporate  
12 headquarters in Menlo Park, California. Facebook's 2019 revenue totaled  
13 approximately \$71 billion. As of December 2019, Facebook averaged 2.50 billion  
14 monthly active users. According to a recent filing with the United States Security and  
15 Exchange Commission: (a) Facebook is a social network that generates substantially all  
16 of its revenue from selling advertising placements to marketers; (b) Facebook ads allow  
17 marketers to reach people based on various factors including age, gender, behaviors,  
18 location and interests; and (c) Facebook's advertising revenue depends on "targeting  
19 and measurement tools that incorporates data signals from user activity on websites."  
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22           11. Defendant LinkedIn is a Delaware subsidiary of Microsoft Corporation  
23 ("Microsoft"), with its corporate headquarters in Sunnyvale, California. According to  
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1 Microsoft's 2019 Annual Report, LinkedIn is the "world's largest professional network  
2 on the Internet" with revenue totaling \$5.3 billion. Among the products offered by  
3 LinkedIn at relevant times was Navigator, a sales tool that provided automated targeting  
4 of prospective customers. The minimum annual fee for access to Navigator was \$780.

### 6 JURISDICTION AND VENUE

7 12. This Court has jurisdiction pursuant to 28 U.S.C. § 1332(d)(2) (the "Class  
8 Action Fairness Act") because sufficient diversity of citizenship exists between the  
9 parties in this action, the aggregate amount in controversy exceeds \$5,000,000,  
10 exclusive of interests and costs, and there are 100 or more members of the Class.  
11

12 13. This Court has personal jurisdiction over Defendants Facebook and  
13 LinkedIn because each is headquartered in California, marketed and sold its products  
14 and services to California consumers and businesses and exposed California residents  
15 to ongoing privacy risks created by its conduct.  
16

17 14. Venue is proper under 28 U.S.C. § 1391(b)(1) and (2) because: (a) both  
18 Defendants reside in the Central District of California; and (b) a substantial part of the  
19 acts or omissions giving rise to the claims alleged herein occurred in the Central District  
20 of California. For instance:  
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22 a. Plaintiff Hurvitz resides in the Central District of California and  
23 used third-party platforms that utilized Login with Facebook and/or Navigator –  
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1 including a software application offered by Zoom Video Communications, Inc.  
2 (“Zoom”) – in the Central District of California. Defendants Facebook and LinkedIn  
3 surreptitiously intercepted communications between Plaintiff and the third-party  
4 platforms that originated from Plaintiff’s devices in the Central District of California.  
5 The harm Plaintiff suffered as a result of Defendants’ conduct occurred in the Central  
6 District of California.  
7

8  
9 b. Defendant Facebook has a substantial presence within the Central  
10 District of California. Since approximately 2008, Facebook has maintained a corporate  
11 office in the Central District which, as of approximately 2019, encompassed 260,000  
12 square feet of office space. The Central District corporate office houses various  
13 Facebook executives, including the head of North America entertainment media  
14 partnerships and the head of development for the Facebook video service Facebook  
15 Watch.  
16

17  
18 c. Defendant Facebook derives substantially all of its revenue from  
19 selling advertising placement to marketers, who can target customers based on  
20 geography. Facebook’s active user base – the potential consumers that power the  
21 company’s ad sales – comprise almost 70% of the U.S. adult population. Based on this  
22 figure, on information and belief, Facebook targeted its unlawful conduct, as alleged  
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1 herein, at thousands of Central District of California residents, including residents who  
2 are not Facebook users.

3 d. Defendant LinkedIn is company with an estimated 133 million  
4 American users. Based on this figure, on information and belief, LinkedIn targeted its  
5 unlawful conduct, as alleged herein, at thousands of Central District of California  
6 residents, including residents who are not LinkedIn members.  
7

## 8 **FACTUAL ALLEGATIONS**

### 9 ***SDKs and APIs***

10  
11 15. An SDK is a compilation of tools, code, processes and guides used for  
12 creating software applications on a specific platform. An SDK is akin to “one-stop  
13 shopping,” in that an SDK provides everything necessary to address an issue a website  
14 developer seeks to resolve.  
15

16  
17 16. An API is an interface that allows software to interact with other software.  
18 Unlike an SDK, is not all-encompassing. Rather, an API allows one platform to  
19 communicate with another platform.  
20

### 21 ***Defendants’ Use of SDKs and APIs***

22 17. To increase revenue and market reach, Defendants Facebook and LinkedIn  
23 offered various SDKs and APIs to third parties.  
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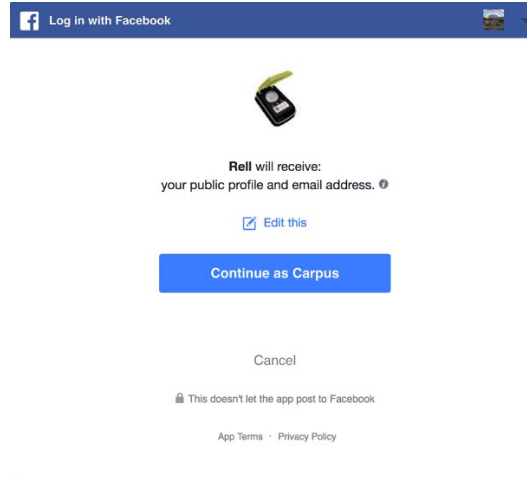
### *The Login with Facebook Feature*

18. At relevant times, Defendant Facebook made the Facebook SDK for iOS available to third parties for incorporation into their platforms. Features that could be integrated into a third-party platform via the Facebook SDK for iOS included Facebook’s “Like” button and the Login with Facebook Feature which allowed a third-party app user to log into the third-party app using his Facebook login credentials.

19. Third-party apps that utilized the Login with Facebook Feature typically would have a Login with Facebook button – as depicted below – integrated into the app:



20. A third-party app operator that integrated the Login with Facebook Feature into its apps had the ability to set various “permissions” that the feature would allow the app to collect from users. For instance, a third-party app operator could set the “permissions” to allow the Login with Facebook Feature to provide the app operator with users’ public Facebook profiles and email addresses, as depicted in the image below:



21. Defendant Facebook promoted the Login with Facebook Feature as a way for a third-party operator: (a) to allow users to more easily create an account with the third-party; and (b) to access users' data.

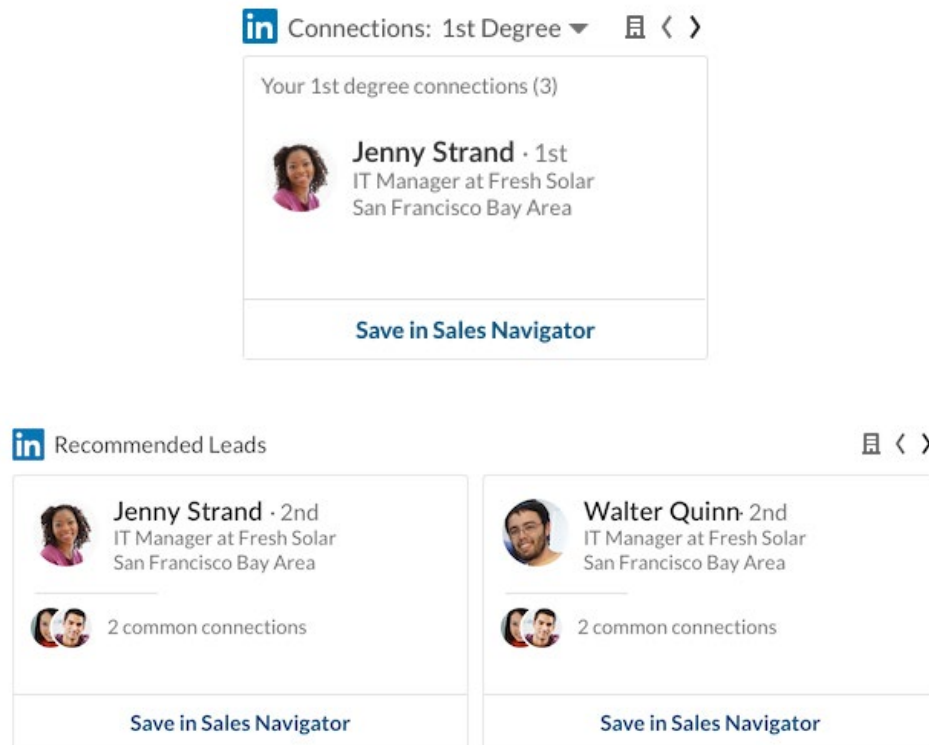
22. However, Defendant Facebook did not disclose to third-party app operators that the Login with Facebook Feature gave Facebook the ability to intercept electronic communications between the third-party apps and their users. Facebook did not seek, nor receive, consent from third-party app developers to intercept electronic communications between third-party apps and their users.

23. Defendant Facebook did not seek, nor receive, consent from users of third-party apps that utilized the Login with Facebook Feature to intercept the electronic communications between the users' devices and the third-party apps.

***The Navigator API***

24. At relevant times, Defendant LinkedIn allowed third-party platforms to integrate Navigator into their platforms via an API.

25. The Navigator API allowed users of third-party platforms to access the LinkedIn profiles of other users of the platforms. The profile information provided was displayed in a format similar to that depicted below:



26. Defendant LinkedIn did not disclose to third-party platform operators that integration of the Navigator API gave LinkedIn the ability to intercept electronic communications between the third-party platforms and their users. LinkedIn did not

1 seek, nor receive, consent from third-party platform developers to intercept electronic  
2 communications between third-party platforms and their users.

3 27. Defendant LinkedIn did not seek, nor receive, consent from users of third-  
4 party platforms that utilized Navigator to intercept the electronic communications  
5 between the users' devices and the third-party platforms.  
6

7 ***Defendants' Unlawful Interception, Use and/or Disclosure of Electronic***  
8 ***Communications***

9 ***Defendant Facebook***  
10

11 28. Defendant Facebook designed the Login with Facebook Feature to provide  
12 it with a way to spy on the content of electronic communications between third-party  
13 apps and their users contemporaneously with those communications taking place.  
14

15 29. Via the Login with Facebook Feature, Defendant Facebook  
16 surreptitiously, contemporaneously and intentionally intercepted, and endeavored to  
17 intercept, the electronic communications between third-party apps that had integrated  
18 feature into their apps and users of those apps.  
19

20 30. Similarly, via the Login with Facebook Feature, Defendant Facebook  
21 surreptitiously and intentionally used, and endeavored to use, the contents of the  
22 electronic communications between third-party apps that had integrated the feature into  
23 the apps and users of the third-party apps.  
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1           31. Defendant Facebook engaged in the above-described conduct regardless  
2 of whether a third-party app user was a Facebook member and regardless of whether  
3 the app user was logged into his Facebook account.  
4

5           32. In the alternative, via the Login with Facebook Feature, Defendant  
6 Facebook intentionally and without authorization accessed a facility through which an  
7 electronic communication service was provided – namely, third-party apps – and  
8 obtained access to electronic communications while those communications were in  
9 electronic storage. Facebook engaged in this conduct regardless of whether a third-  
10 party app user was a Facebook member and regardless of whether the user was logged  
11 into his Facebook account.  
12

13           33. Defendant Facebook engaged in the conduct alleged herein without the  
14 consent or authorization of either party to the electronic communications.  
15

16           34. For example, at relevant times, Zoom offered an app that integrated the  
17 Login with Facebook Feature. In a recent statement, Zoom stated that it had integrated  
18 the Login with Facebook Feature as a convenient way for Zoom users to access its  
19 platform. According to Zoom, it was unaware of Facebook's surreptitious interception  
20 of electronic communications between Zoom users and Zoom.  
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22           35. Defendant Facebook engaged in deceptive conduct to conceal its unlawful  
23 conduct.  
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1           36. By intercepting the electronic communications between third-party apps  
2 and their users, Defendant Facebook amassed increasingly detailed profiles third-party  
3 app users, which profiles Facebook then used in the marketing and execution of its  
4 targeted advertising business.  
5

6           37. Defendant Facebook unjustly enriched itself through its intentional and  
7 surreptitious: (a) interception of electronic communications between third-party apps  
8 and their users; and (b) use of the contents of those electronic communications.  
9 Facebook's unlawful conduct allowed it to: (a) amass increasingly detailed profiles on  
10 users of the third-party apps; and (b) increase its advertising business revenues by  
11 marketing its ability to target advertisements based on the detailed personal profiles it  
12 possessed.  
13

14           38. Alternatively, Defendant Facebook unjustly enriched itself by  
15 intentionally and without authorization accessing a facility through which an electronic  
16 communication service was provided – namely, third-party apps – and obtaining access  
17 to electronic communications while those communications were in electronic storage.  
18 Facebook's unlawful conduct allowed it to: (a) amass increasingly detailed profiles on  
19 users; and (b) increase its advertising business revenues by marketing its ability to target  
20 advertisements based on the detailed personal profiles it possessed.  
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***Defendant LinkedIn***

39. Defendant LinkedIn designed Navigator API to allow it to contemporaneously intercept, and endeavor to intercept, the electronic communications between the third-party platforms and their users.

40. Via the Navigator API, Defendant LinkedIn surreptitiously, contemporaneously and intentionally intercepted, and endeavored to intercept, electronic communications between third-party platforms that had integrated Navigator API into their platforms and the platforms' users, regardless of whether a user was a LinkedIn member and regardless of whether the user was logged into his LinkedIn account.

41. After Defendant LinkedIn intercepted the electronic communications described above, it then used and disclosed, and endeavored to use and disclose, the contents of those electronic communications to better market its products and services in order to generate increased revenues.

42. In the alternative, via the Navigator API integration, Defendant LinkedIn intentionally and without authorization accessed a facility through which an electronic communication service was provided – namely, third-party platforms – and obtained access to electronic communications while those communications were in electronic

1 storage. LinkedIn engaged in this conduct regardless of whether a user was a LinkedIn  
2 member and regardless of whether the user was logged into his LinkedIn account.

3 43. The personal information Defendant LinkedIn learned from the above-  
4 described conduct included users' persistent identifiers and other details that allowed  
5 LinkedIn to identify the users by name and LinkedIn profile, even when the users sought  
6 to keep their identities anonymous.  
7

8 44. Defendant LinkedIn engaged in the conduct alleged herein without the  
9 consent or authorization of either party to the electronic communications.  
10

11 45. For example, at relevant times, Zoom integrated the Navigator API into its  
12 platforms. Zoom was not aware that integration of the Navigator API allowed  
13 Defendant LinkedIn to surreptitiously intercept the electronic communications between  
14 Zoom users and Zoom. Upon learning this fact, Zoom permanently removed the  
15 Navigator API from its platform.  
16

17 46. By obtaining the content of users' electronic communications with third  
18 parties, Defendant LinkedIn amassed increasingly detailed profiles of the users of the  
19 third-party platforms for use in marketing and selling Navigator and other products and  
20 services.  
21

22 47. Defendant LinkedIn unjustly enriched itself through the intentional and  
23 surreptitious: (a) interception of electronic communications between third-party  
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1 platforms and their users; and (b) use and disclosure of the contents of those  
2 communications in order to increase sales of Navigator and other LinkedIn services and  
3 products.

4  
5 48. Alternatively, Defendant LinkedIn unjustly enriched itself by intentionally  
6 and without authorization accessing a facility through which an electronic  
7 communication service was provided – namely, third-party platforms – and obtaining  
8 access to electronic communications while those communications were in electronic  
9 storage in order to increase sales of Navigator and other LinkedIn services and products.  
10

11 ***Reasonable Expectation of Privacy***  
12

13 49. As alleged in more detail below, the users of the third-party platforms that  
14 had integrated the Login with Facebook Feature and/or the Navigator API had a  
15 reasonable expectation of privacy in their electronic communications with third-party  
16 platforms and the contents of those communications.  
17

18 50. The contents of the communications at issue consisted of, among other  
19 things, users' personally identifiable and sensitive information, including: (a) iOS  
20 Advertiser ID; (b) iOS Timezone; (c) IP Address; (c) iOS Language; (d) iOS Disk Space  
21 Available; (e) iOS Disk Space Remaining; (f) iOS Device Model; (g) iOS Version; (h)  
22 Device Carrier; (i) iOS Device CPU Cores; (j) Application Bundle Identifier; (k)  
23 Application Instance ID; (l) Application Version; (m) on information and belief,  
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1 referring and exit URLs; and (n) other persistent identifiers by which a user could be  
2 identified, such as, on information and belief, Android Advertiser IDs and device  
3 identifiers.  
4

5 51. When a user logs into a platform or opens an app, the substance and  
6 meaning of the corresponding communication is all of the information collected by the  
7 platform to authenticate and identify the user so that the user may access the platform's  
8 services. Similarly, the purpose of the communication is to allow the platform to  
9 determine whether to grant the user access to the platform based on the authenticating  
10 and identifying information provided. A user who prevents device and other identifying  
11 information – such as that described in the preceding paragraph – from being  
12 transmitted to the third-party platform by disabling cookies, using a virtual private  
13 network to mask the user's internet protocol addresses, or through other methods may  
14 be denied access to the platform due to the platform's inability to properly authenticate  
15 and identify the user. Thus, as alleged herein, the electronic communications at issue  
16 concerned the substance, purpose and meaning of users' communications with third-  
17 party platforms on which the Login with Facebook Feature and/or the Navigator API  
18 were integrated.  
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52. By tracking the referring and exit URLs of users of third-party platforms Defendants obtained highly sensitive communications and information about the users, including their actual web browsing histories.

53. An iOS Advertiser ID or Android Advertiser ID is known as a persistent identifier and is particularly sensitive because it is specifically assigned to a user's device and can be tracked over time, across platforms and linked to a specific user. When linked to other data points about the same user – such as the data points described above – a persistent identifier reveals a personal profile that data collectors like Defendants Facebook and LinkedIn can exploit.

54. The Federal Trade Commission (“FTC”) has described the way in which companies like Defendants Facebook and LinkedIn can use persistent identifiers in conjunction with other data points to amass a valuable profile on an individual:

[In a recent survey], one ad network received information from 31 different apps. Two of these apps transmitted geolocation to the ad network along with a device identifier [a type of persistent identifier], and the other 29 apps transmitted other data (such as app name, device configuration details, and the time and duration of use) in connection with a device ID. ***The ad network could thus link the geolocation information obtained through the two apps to all the other data collected through the other 29 apps by matching the unique, persistent device ID.***<sup>1</sup>

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<sup>1</sup> Federal Trade Commission, *Mobile Apps for Kids: Disclosures Still Not Making the Grade*, at 10, n.25 (Dec. 2012), <https://www.ftc.gov/sites/default/files/documents/reports/mobile-apps-kids-disclosures-still-not-making-grade/121210mobilekidsappreport.pdf> (last accessed on Apr. 11, 2020) (emphasis added).

1           55. Defendant Facebook's and LinkedIn's unlawful, surreptitious collection  
2 of personal information of users' of third-party platforms on which the Login with  
3 Facebook Feature and/or the Navigator API were integrated allowed them to amass  
4 increasingly detailed profiles on users showing how, when and why they used the  
5 platforms, along with other inferences that could be drawn therefrom.  
6

7           56. Indeed, by obtaining a user's iOS Advertiser ID or Android Advertiser ID,  
8 along with other information, such as that described above, Defendants Facebook and  
9 LinkedIn were able to identify the specific user and amass the data collected from the  
10 third-party platforms with other data previously collected by Facebook and LinkedIn,  
11 giving them multiple ways to identify the user even if the user took steps to keep his  
12 identity anonymous.  
13

14           57. Moreover, the combination of either of the Advertiser IDs and other data,  
15 such as that described above, better allowed Defendants Facebook and LinkedIn to  
16 deanonymize a user's data and reidentify the user. This is significant because many  
17 companies contend that they only share, sell or use personal information in an aggregate  
18 and/or anonymized format. By obtaining Advertiser IDs, along with other personal  
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1 information, such as that described above, Defendants Facebook and LinkedIn could  
2 render the concept of anonymized data a nullity.<sup>2</sup>

3 58. As far back as 1928, Justice Brandeis famously acknowledged American's  
4 right and expectation of privacy, writing that the makers of the Constitution "conferred  
5 as against the government, the right to be let alone – the most comprehensive of rights  
6 and the most valued by civilized men."<sup>3</sup>

7  
8 59. The FTC has recognized the public's expectation of privacy in their online  
9 data. Speaking to the scope of Section 5 of the FTC Act, 15 U.S.C. § 45, *et seq.*, an FTC  
10 commissioner noted in 2015 that the "FTC first began to apply Section 5 to companies'  
11 privacy and data security practices two decades ago," when "it was clear that the  
12 personal data flowing as part of electronic commerce could be used to cause financial  
13 harm to consumers."<sup>4</sup> The Commissioner further stated that at the time the FTC began  
14 applying § 5 to data privacy issues, it was clear that "that personal data practices could  
15 cause a much broader array of harms."<sup>5</sup>

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22 <sup>2</sup> Luc Rocher, *et al.*, *Estimating the Success of Re-Identification in Incomplete Datasets*  
23 *Using Generative Models*, Nature Communications (July 23, 2019),  
24 <https://www.nature.com/articles/s41467-019-10933-3> (last accessed on Apr. 11, 2020)  
(discussing reidentification of anonymized data).

25 <sup>3</sup> *Olmstead v. United States*, 277 U.S. 438, 478 (1928) (Brandeis, J., dissenting).

26 <sup>4</sup> Julie Brill, *U.S. Privacy Law: Hiding in Plain Sight*, Federal Trade Comm'n (Apr. 30,  
27 2015), 2015 WL 1968595, at \*2.

28 <sup>5</sup> *Id.*

60. The public’s growing concern over the privacy of their online information is reflected in the increasing number of comprehensive data privacy and data protection laws that are being introduced in state legislatures across the country and being passed throughout the world.<sup>6</sup>

61. For instance, in 2018, the General Data Protection Regulation (“GDPR”) took effect in Europe.<sup>7</sup> The GDPR regulates how companies treat the personal data of EU citizens.<sup>8</sup>

62. In 2018, Vermont enacted a law that regulates data brokers and requires them to disclose to individuals the data that is being collected about them and allows individuals to opt out of the collection.<sup>9</sup>

63. On January 1, 2020, the California Consumer Privacy Act (“CCPA”) went into effect.<sup>10</sup> The CCPA “is one of the broadest online privacy laws in the U.S., affecting companies across the country that do business with California residents.”<sup>11</sup>

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<sup>6</sup> *2019 Consumer Data Privacy Legislation*, Nat’l Conf. of State Legis. (Jan. 3, 2020), <https://www.ncsl.org/research/telecommunications-and-information-technology/cybersecurity-legislation-2020.aspx> (last accessed on Apr. 26, 2020).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

1           64. In 2019, 25 states introduced over 100 pieces of legislation seeking to  
2 regulate the privacy of consumer data.<sup>12</sup>

3           65. It also well-established in American jurisprudence that snooping on private  
4 communications is highly offensive conduct.

5           66. The Federal Wiretap Act of 1968 regulated the interception of telephone  
6 communications.  
7

8           67. The Electronic Communications Privacy Act of 1986 (“ECPA”) updated  
9 the Federal Wiretap Act to strictly regulate the interception of computer, digital and  
10 electronic communications.  
11

12           68. Two components of the ECPA are the Wiretap Act, 18 U.S.C. § 2510, *et*  
13 *seq.* (the “Wiretap Act”), and the Stored Communications Act, 18 U.S.C. § 2701, *et*  
14 *seq.* (the “Stored Communications Act”). The Wiretap Act addresses, in part, the  
15 interception, use and disclosure of electronic communications and the contents thereof.  
16 18 U.S.C. § 2511. The Stored Communications Act addresses, in part, the unauthorized  
17 access of a facility through which an electronic communication service is provided in  
18 order to obtain access to an electronic communication that is in electronic storage. 18  
19 U.S.C. § 2701.  
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26           <sup>12</sup> *Id.*

***The Market for Data***

69. Several online companies allow individuals to sell their own data online.

70. One such company estimates that an individual can earn up \$2,000 per year selling his data.

71. By unlawfully collecting, distributing and using the data of users of third-party platforms, Defendants diminished the value of the data and unjustly enriched themselves.

***Defendants' History of Lax Security and Deceptive Data Privacy Practices******Defendant Facebook***

72. Defendant Facebook has a long history of lax security practices and deceptive data privacy practices, as exemplified by the allegations below:

73. Similar to Defendant Facebook's conduct here, in 2011, a researcher disclosed that Facebook covertly tracked the websites Facebook users visited when users were logged out of Facebook. Facebook began engaging in the conduct in April 2010 and did not cease doing so until the *Wall Street Journal* published the researcher's findings in September 2011.

74. In 2012, the FTC charged Defendant Facebook with eight separate privacy-related violations, including that Facebook made misrepresentations regarding users' ability to control the privacy of their personal data. In response, Facebook agreed



1 to change its privacy practices. However, Facebook breached its agreement with the  
2 FTC, resulting in the FTC imposing a record-setting \$5 billion penalty against Facebook  
3 in 2019.

4  
5 75. In 2015, Defendant Facebook was sued for violating the Illinois Biometric  
6 Information Privacy Act, 740 ILCS § 14/1, *et seq.*, as a result of a facial recognition  
7 feature that tagged people's photos. In January 2020, Facebook settled the matter for  
8 \$550 million.  
9

10 76. In 2018, hackers exploited a vulnerability in Defendant Facebook's code  
11 and stole the personal information of approximately 29 million Facebook users.  
12 Facebook has agreed to settle a consolidated class action arising out of the data breach.  
13 As part of the settlement, Facebook has agreed to implement improved security  
14 practices.  
15  
16

17 ***Defendant LinkedIn***

18 77. Defendant LinkedIn also has long a history of lax security practices and  
19 deceptive data privacy practices.  
20

21 78. In 2010, Defendant LinkedIn experienced a data breach in which a hacker  
22 obtained the passwords of approximately 6.5 million users. According to reports,  
23 LinkedIn failed to store the passwords in a secure manner. LinkedIn settled the matter  
24 for \$1.25 million.  
25  
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1           79. Between September 2011 and October 31, 2014, Defendant LinkedIn  
2 imported contacts from users' external email contacts and then repeatedly emailed those  
3 contacts without obtaining consent to use the users' names and likenesses. LinkedIn  
4 settled the matter for \$13 million.  
5

6           80. In November 2018, Ireland's Data Protection Commissioner found that  
7 Defendant LinkedIn obtained the email addresses of 18 million non-members and then  
8 targeted those non-members with Facebook advertisements without their consent.  
9 LinkedIn subsequently agreed to cease engaging in the conduct.  
10

11 ***Allegations Related to Plaintiff Hurvitz***  
12

13           81. At relevant times, Plaintiff Hurvitz – from his residence and other places  
14 located within the Central District of California – used devices running the iOS and  
15 macOS operating systems to access third-party platforms that utilized the Login with  
16 Facebook Feature and the Navigator API, including Zoom's platforms.  
17

18           82. Plaintiff Hurvitz did not authorize Defendants Facebook and LinkedIn to  
19 intercept his electronic communications with third-party platforms.  
20

21           83. Plaintiff Hurvitz did not authorize Defendants Facebook and LinkedIn to  
22 use and/or disclose the contents of his electronic communications with third-party  
23 platforms.  
24

1           84. Plaintiff Hurvitz did not authorize Defendants Facebook and LinkedIn to  
2 access third-party platforms he used and obtain his electronic communications with  
3 those platforms while they were in electronic storage.  
4

5           85. Plaintiff Hurvitz did not consent to the installation of code on his devices  
6 that served to benefit the collection of his personal information by Defendants Facebook  
7 and LinkedIn.  
8

9           86. Plaintiff Hurvitz did not have knowledge of the conduct of Defendants  
10 Facebook and LinkedIn with respect to his data, as alleged herein.  
11

12 ***Plaintiff Hurvitz's and Class Members' Injuries and Damages***

13           87. As a result of the conduct of Defendants Facebook and LinkedIn, Plaintiff  
14 Hurvitz and Class Members have suffered and will continue to suffer severe  
15 consequences, as Defendants' conduct has, among other things:  
16

- 17           a. Diminished the value of the personal information of Plaintiff and  
18 Class Members;  
19           b. Invaded Plaintiff's and Class Members' privacy;  
20           c. Deprived Plaintiff and Class Members of the ability to control the  
21 collection, use and distribution of their personal information;  
22           d. Deprived Plaintiff and Class Members of their right to control and  
23 to choose how to use their identities for commercial purposes;  
24  
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- e. Inhibited the ability of Plaintiff and Class Members to control the information third parties receive about them;
- f. Trespassed upon Plaintiff's and Class Members' devices; and
- g. Precluded Plaintiff and Class Members from conditioning Defendants' use of their personal information on an agreement to provide Plaintiff and Class Members with a portion of the proceeds.

88. Defendants' wrongful actions have directly and proximately caused Plaintiff Hurvitz and Class Members to face the immediate and continuing increased risk of economic damages and other actual harm for which they are entitled to compensation, including, among others:

- a. Damages to, and diminution in the value of, the personal information Defendants' intercepted, used and distributed;
- b. Costs associated with reviewing and trying to stop unwanted advertisements and solicitations, such as time taken from the enjoyment of one's life, and the inconvenience, nuisance, cost and annoyance of dealing with the unwanted solicitations; and
- c. The loss of Plaintiff's and Class Members' privacy.

***Fraudulent Concealment and Tolling***

89. The applicable statutes of limitations are tolled by virtue of Defendants' knowing and active concealment of the facts alleged above. Plaintiff Hurvitz and Class Members were ignorant of the information essential to the pursuit of these claims, without any fault or lack of diligence on their part.

90. Defendants' fraudulent concealment is common to each of the classes defined below.

**CLASS ACTION ALLEGATIONS**

91. Plaintiff Hurvitz brings this action on behalf of himself as a class action under Federal Rule of Civil Procedure 23, seeking damages and equitable relief on behalf of the following nationwide Class for which Plaintiff seeks certification:

All persons and businesses in the United States whose electronic communications with websites and/or software applications were unlawfully intercepted, used and/or disclosed by Facebook and/or LinkedIn (the "Nationwide Class").

92. Additionally, Plaintiff Hurvitz brings this action on behalf of the following subclass of individuals and businesses seeking damages and relief:

All persons and businesses in the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Minnesota, Missouri, Nevada, New Hampshire, New Jersey, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Texas, Utah, Vermont, Washington and West

1 Virginia whose electronic communications with websites  
2 and/or software applications were unlawfully intercepted,  
3 used and/or disclosed by Facebook and/or LinkedIn (the  
“Intrusion Upon Seclusion Subclass”).

4 93. Additionally, Plaintiff Hurvitz brings this action on behalf of a California  
5 subclass seeking damages and equitable relief on behalf of the following:

6 All persons and businesses in the State of California whose  
7 electronic communications with websites and/or software  
8 applications were unlawfully intercepted, used and/or  
9 disclosed by Facebook and/or LinkedIn (the “California  
10 Subclass”).

11 94. Excluded from the Class and Subclasses are: (a) Defendants Facebook and  
12 LinkedIn; (b) any parent, affiliate or subsidiary of Facebook or LinkedIn; (c) any entity  
13 in which Facebook or LinkedIn has a controlling interest; (d) any of Facebook’s or  
14 LinkedIn’s officers or directors; or (e) any successor or assign of Facebook or LinkedIn.  
15 Also excluded are any judge or court personnel assigned to this case and members of  
16 their immediate families.  
17

18 95. Plaintiff Hurvitz reserves the right to amend or modify the class definitions  
19 with greater specificity or division after having had an opportunity to conduct  
20 discovery.  
21

22 96. **Numerosity.** Consistent with Rule 23(a)(1), the Class and Subclasses  
23 (collectively, the “Classes”) are so numerous that joinder of all members is  
24 impracticable. While Plaintiff Hurvitz does not know the exact number of members of  
25  
26

1 the Classes, the Nationwide Class contains millions of people. Class Members may be  
2 identified through objective means, including objective data available to Defendants  
3 regarding whose data they unlawfully collected, disclosed and/or used. Class Members  
4 may be notified of the pendency of this action by recognized, Court-approved notice  
5 dissemination methods, which may include U.S. mail, electronic mail, internet postings,  
6 social media and/or published notice. All members of the various classes are readily  
7 ascertainable because Defendants have access to information regarding the identities of  
8 the persons whose data is at issue.

11       **97. Commonality and predominance.** Common questions of law and fact  
12 exist as to all Class Members. These common questions of law or fact predominate over  
13 any questions affecting only individual members of the Classes. Common questions  
14 include, but are not limited to the following:

- 15
- 16       a. Whether Defendants engaged in wrongful conduct as alleged herein;
  - 17       b. Whether Defendants Facebook and LinkedIn intentionally and  
18       without the necessary consents intercepted the contents of Class  
19       Members' electronic communications with third-party platforms;
  - 20       c. Whether Defendants Facebook and LinkedIn intentionally and  
21       without the necessary consents used the contents of Class Members'  
22       electronic communications with third-party platforms knowing or  
23       without the necessary consents used the contents of Class Members'  
24       electronic communications with third-party platforms knowing or  
25       without the necessary consents used the contents of Class Members'

1 having reason to know that the information was obtained through  
2 the unlawful interception of the electronic communications;

3 d. Whether Defendants Facebook and LinkedIn intentionally and  
4 without the necessary consents disclosed the contents of Class  
5 Members' electronic communications with third-party platforms  
6 knowing or having reason to know that the information was  
7 obtained through the unlawful interception of the electronic  
8 communications  
9

10  
11 e. Whether Defendants Facebook and LinkedIn intentionally gained  
12 unauthorized access to third-parties' servers where they accessed  
13 the electronically-stored communications between the third parties,  
14 on the one hand, and Plaintiffs and Class Members, on the other;  
15

16  
17 f. Whether Defendants Facebook and LinkedIn intentionally and  
18 without the necessary consents used a recording device to eavesdrop  
19 upon and record the confidential communications between  
20 Plaintiff's and Class Members' devices, on the one hand, and third  
21 parties' servers on the other.  
22

23 g. Whether Defendants Facebook and LinkedIn willfully and without  
24 the necessary consents, in an unauthorized manner read, attempted  
25



1 to read and learned the contents and meaning of communications  
2 between Plaintiff's and Class Members' devices and third-parties'  
3 servers;

4  
5 h. Whether Defendants Facebook and LinkedIn obtained the personal  
6 information of Plaintiff and Class Members under false pretenses;

7  
8 i. Whether Defendants Facebook and LinkedIn invaded Plaintiff's and  
9 Class Members' privacy;

10 j. Whether Defendants Facebook and LinkedIn engaged in unfair or  
11 deceptive trade practices by failing to disclose the true nature of how  
12 they intercepted, used and disclosed Plaintiff's and Class Members'  
13 personal information;

14  
15 k. Whether Defendants Facebook and LinkedIn engaged in unfair or  
16 deceptive trade practices by failing to disclose the true nature of how  
17 they gained access to third-parties' servers to access the  
18 electronically-stored communications between Defendants, on the  
19 one hand, and Plaintiff and Class Members, on the other.  
20

21  
22 l. Whether Plaintiff and Class Members suffered damages as a  
23 proximate result of the conduct of Defendants Facebook and  
24 LinkedIn;  
25

1 m. Whether Defendants Facebook and LinkedIn unjustly enriched  
2 themselves through their unlawful conduct; and

3 n. Whether Plaintiff and Class Members are entitled to damages,  
4 equitable relief and other relief.  
5

6 98. **Typicality.** Plaintiff Hurvitz's claims are typical of the claims of the  
7 Classes he seeks to represent because Plaintiff and all members of the proposed Classes  
8 have suffered similar injuries as a result of the same practices alleged herein. Plaintiff  
9 has no interests to advance adverse to the interests of the other members of the Classes.  
10

11 99. **Adequacy.** Plaintiff will fairly and adequately protect the interests of  
12 Classes and has retained as his counsel attorneys experienced in class actions and  
13 complex litigation.  
14

15 100. **Superiority.** A class action is superior to other available means for the  
16 fair and efficient adjudication of this dispute. The injury suffered by each Class  
17 Member, while meaningful on an individual basis, is not of such magnitude as to make  
18 the prosecution of individual actions against Defendants economically feasible. Even if  
19 Class Members could afford individual litigation, those actions would put  
20 immeasurable strain on the court system. Moreover, individual litigation of the legal  
21 and factual issues of the case would increase the delay and expense to all parties and  
22 the court system. A class action, however, presents far fewer management difficulties  
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1 and provides the benefit of single adjudication, economy of scale and comprehensive  
2 supervision by a single court.

3 101. In the alternative, the proposed classes may be certified because:

- 4 a. The prosecution of separate actions by each individual member of  
5 the Classes would create a risk of inconsistent adjudications, which  
6 could establish incompatible standards of conduct for Defendants;  
7  
8 b. The prosecution of individual actions could result in adjudications  
9 that as a practical matter would be dispositive of the interests of non-  
10 party Class Members or which would substantially impair their  
11 ability to protect their interests; and  
12  
13 c. Defendants acted or refused to act on grounds generally applicable  
14 to the proposed classes, thereby making final and injunctive relief  
15 appropriate with respect to members of the Classes.  
16  
17

18 102. Pursuant to Rule 23(c)(4) particular issues are appropriate for certification  
19 – namely the issues described in paragraph 97, above, because resolution of such issues  
20 would advance the disposition of the matter and the parties’ interests therein.  
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**CLAIMS FOR RELIEF**

**COUNT ONE**

**WIRETAP ACT, 18 U.S.C. § 2511(1)(a)**

**(On behalf of the National Class Against Defendant Facebook)**

103. Plaintiff restates and realleges all paragraphs of this First Amended Class Action Complaint as though fully set forth herein.

104. The electronic communications between third-party apps, on the one hand, and Plaintiff and Class Members, on the other, constitute electronic communications under the Wiretap Act, 18 U.S.C. § 2510(12), as they consist of the transfer of signs, signals, writing, images, sounds, data or intelligence transmitted in whole or in part by wire, radio, electromagnetic, photoelectronic or photooptical system that affect interstate commerce by, on information and belief, crossing state lines.

105. Defendant Facebook intentionally intercepted, and endeavored to intercept electronic communications, as alleged herein, between third-party apps, on the one hand, and Plaintiff and Class Members, on the other. Facebook was not a party to the electronic communications.

106. Defendant Facebook intercepted, and endeavored to intercept, the electronic communications at issue contemporaneously with the occurrence of those communications, but separately from the actual communications between the participants to the communications.

1           107. Defendant Facebook intercepted, and endeavored to intercept, the  
2 electronic communications at issue without obtaining or receiving the consent or  
3 authorization of any party to the electronic communications.  
4

5           108. Defendant Facebook's conduct violated the Wiretap Act.

6           109. As a direct and proximate result of Defendant Facebook's violation of the  
7 Wiretap Act, Plaintiff's and Class Members' personal information was disclosed to  
8 Facebook and used in a manner that otherwise harmed Plaintiff and Class Members,  
9 causing Plaintiff and Class Members to suffer injuries.  
10

11           110. Plaintiff and Class Members seek the greater of: (a) the sum of actual  
12 damages they suffered and any profits made by Defendant Facebook as a result of its  
13 violations of the Wiretap Act; or (b) statutory damages in the amount of \$100 a day for  
14 each day of violation or \$10,000, whichever is greater.  
15  
16

17           111. Plaintiff and Class Members also seek punitive damages, reasonable  
18 attorney's fees and other litigation costs reasonably incurred.  
19

20           112. Moreover, unless and until enjoined and restrained by order of this Court,  
21 Defendant Facebook's wrongful conduct will continue to cause great and irreparable  
22 injury to Plaintiff and Class Members in that Facebook and others can continue to use  
23 the unlawfully obtained personal information to Plaintiff's and Class Members'  
24 detriment. Plaintiff and Class Members have no adequate remedy at law for the injuries  
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1 in that a judgment for monetary damages will not end the invasion of privacy for  
2 Plaintiff and Class Members.

3  
4 **COUNT TWO**  
5 **WIRETAP ACT, 18 U.S.C. § 2511(1)(a)**  
6 **(On behalf of the National Class Against Defendant LinkedIn)**

7 113. Plaintiff restates and realleges all paragraphs of this First Amended Class  
8 Action Complaint as though fully set forth herein.

9 114. The login and other communications between third-party platforms, on the  
10 one hand, and Plaintiff and Class Members, on the other, constitute electronic  
11 communications under the Wiretap Act, 18 U.S.C. § 2510(12), as they consist of the  
12 transfer of signs, signals, writing, images, sounds, data or intelligence transmitted in  
13 whole or in part by wire, radio, electromagnetic, photoelectronic or photooptical system  
14 that affect interstate commerce by, on information and belief, crossing state lines.

15  
16 115. Defendant LinkedIn intentionally intercepted, and endeavored to intercept  
17 electronic communications, as alleged herein, between third-party platforms, on the one  
18 hand, and Plaintiff and Class Members, on the other. LinkedIn was not a party to the  
19 electronic communications.  
20

21 116. Defendant LinkedIn intercepted, and endeavored to intercept, the  
22 electronic communications at issue contemporaneously with the occurrence of those  
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1 communications, but separately from the actual communications between the  
2 participants to the communications.

3 117. Defendant LinkedIn intercepted, and endeavored to intercept, the  
4 electronic communications at issue without obtaining or receiving the consent or  
5 authorization of any party to the electronic communications.  
6

7 118. Defendant LinkedIn's conduct violated the Wiretap Act.  
8

9 119. As a direct and proximate result of Defendant LinkedIn's violation of the  
10 Wiretap Act, Plaintiff's and Class Members' personal information was disclosed to  
11 LinkedIn and used in a manner that otherwise harmed Plaintiff and Class Members,  
12 causing Plaintiff and Class Members to suffer injuries.  
13

14 120. Plaintiff and Class Members seek the greater of: (a) the sum of actual  
15 damages they suffered and any profits made by Defendant LinkedIn as a result of its  
16 violations of the Wiretap Act; or (b) statutory damages in the amount of \$100 a day for  
17 each day of violation or \$10,000, whichever is greater.  
18

19 121. Plaintiff and Class Members also seek punitive damages, reasonable  
20 attorney's fees and other litigation costs reasonably incurred.  
21

22 122. Moreover, unless and until enjoined and restrained by order of this Court,  
23 Defendant LinkedIn's wrongful conduct will continue to cause great and irreparable  
24 injury to Plaintiff and Class Members in that LinkedIn and others can continue to use  
25

1 the unlawfully obtained personal information to Plaintiff's and Class Members'  
2 detriment. Plaintiff and Class Members have no adequate remedy at law for the injuries  
3 in that a judgment for monetary damages will not end the invasion of privacy for  
4 Plaintiff and Class Members or require LinkedIn to retrieve the personal information  
5 from the entities to which it was disclosed.  
6

7  
8 **COUNT THREE**  
9 **WIRETAP ACT, 18 U.S.C. § 2511(1)(c)**  
10 **(On behalf of the National Class Against Defendant LinkedIn)**

11 123. Plaintiff restates and realleges all paragraphs of this First Amended Class  
12 Action Complaint as though fully set forth herein.

13 124. The alleged electronic communications between third-party platforms, on  
14 the one hand, and Plaintiff and Class Members, on the other, constitute electronic  
15 communications under the Wiretap Act, 18 U.S.C. § 2510(12), as they consist of the  
16 transfer of signs, signals, writing, images, sounds, data or intelligence transmitted in  
17 whole or in part by wire, radio, electromagnetic, photoelectronic or photooptical system  
18 that affect interstate commerce.  
19

20 125. As alleged herein, the login communications between third-party  
21 platforms, on the one hand, and Plaintiff and Class Members on the other, constitute  
22 the contents of an electronic communication because the information communicated  
23 concerned the substance, purport and meaning of the communication.  
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1           126. Defendant LinkedIn intentionally disclosed, and endeavored to disclose,  
2 to users of third-party platforms the contents of the electronic communications between  
3 third-party platforms, on the one hand, and Plaintiff and Class Members, on the other,  
4 as alleged herein. LinkedIn was not a party to the electronic communications.  
5

6           127. Defendant LinkedIn knew, and had reason to know, that the information  
7 at issue was obtained through the interception of electronic communications between  
8 third-party platforms, on the one hand, and Plaintiff and Class Members, on the other,  
9 because LinkedIn was directly involved in the interception.  
10

11           128. Defendant LinkedIn intercepted, and endeavored to intercept, the  
12 electronic communications at issue contemporaneously with the occurrence of those  
13 communications, but separately from the actual communications between the  
14 participants to the communications.  
15

16           129. Defendant LinkedIn intercepted and endeavored to intercept the contents  
17 of the electronic communications at issue without obtaining or receiving the consent or  
18 authorization of any party to the electronic communications.  
19

20           130. Defendant LinkedIn's conduct violated the Wiretap Act.  
21

22           131. As a direct and proximate result of Defendant LinkedIn's violation of the  
23 Wiretap Act, Plaintiff's and Class Members' personal information was disclosed by  
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1 LinkedIn to others and used in a manner that otherwise harmed Plaintiff and Class  
2 Members, causing Plaintiff and Class Members to suffer injuries.

3 132. Plaintiff and Class Members seek the greater of: (a) the sum of actual  
4 damages they suffered and any profits made by Defendant LinkedIn as a result of its  
5 violations of the Wiretap Act; or (b) statutory damages in the amount of \$100 a day for  
6 each day of violation or \$10,000, whichever is greater.  
7

8 133. Plaintiff and Class Members also seek punitive damages, reasonable  
9 attorney's fees and other litigation costs reasonably incurred.  
10

11 134. Moreover, unless and until enjoined and restrained by order of this Court,  
12 Defendant LinkedIn's wrongful conduct will continue to cause great and irreparable  
13 injury to Plaintiff and Class Members in that LinkedIn and others can continue to use  
14 the unlawfully obtained personal information to Plaintiff's and Class Members'  
15 detriment. Plaintiff and Class Members have no adequate remedy at law for the injuries  
16 in that a judgment for monetary damages will not end the invasion of privacy for  
17 Plaintiff and Class Members or require LinkedIn to retrieve the personal information  
18 from the unauthorized entities to which it was disclosed.  
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**COUNT FOUR**  
**WIRETAP ACT, 18 U.S.C. § 2511(1)(d)**  
**(On behalf of the National Class Against Defendant Facebook)**

135. Plaintiff restates and realleges all paragraphs of this First Amended Class Action Complaint as though fully set forth herein.

136. The login and other communications between third-party apps, on the one hand, and Plaintiff and Class Members, on the other, constitute electronic communications under the Wiretap Act, 18 U.S.C. § 2510(12), as they consist of the transfer of signs, signals, writing, images, sounds, data or intelligence transmitted in whole or in part by wire, radio, electromagnetic, photoelectronic or photooptical system that affect interstate commerce.

137. As alleged herein, the electronic communications between third-party apps, on the one hand, and Plaintiff and Class Members on the other, constitute the contents of an electronic communication because the information communicated concerned the substance, purport and meaning of the communication.

138. Defendant Facebook intentionally used, and endeavored to use, the contents of the electronic communications between third-party apps, on the one hand, and Plaintiff and Class Members, on the other. Specifically, Facebook used the contents of the communications to generate increased revenues through the sale of advertising.

139. Defendant Facebook was not a party to the electronic communications.

1           140. Defendant Facebook knew, and had reason to know, that the information  
2 at issue was obtained through the interception of electronic communications between  
3 third-party apps, on the one hand, and Plaintiff and Class Members, on the other,  
4 because Facebook was directly involved in the interception.  
5

6           141. Defendant Facebook intercepted, and endeavored to intercept, the  
7 electronic communications at issue contemporaneously with the occurrence of those  
8 communications, but separately from the actual communications between the  
9 participants to the communications.  
10

11           142. Defendant Facebook intercepted and endeavored to intercept the contents  
12 of the electronic communications at issue without obtaining or receiving the consent or  
13 authorization of any party to the electronic communications.  
14

15           143. Defendant Facebook's conduct violated the Wiretap Act.  
16

17           144. As a direct and proximate result of Defendant Facebook's violation of the  
18 Wiretap Act, Plaintiff's and Class Members' personal information was disclosed by  
19 Facebook to others and used in a manner that otherwise harmed Plaintiff and Class  
20 Members, causing Plaintiff and Class Members to suffer injuries.  
21

22           145. Plaintiff and Class Members seek the greater of: (a) the sum of actual  
23 damages they suffered and any profits made by Defendant Facebook as a result of its  
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1 violations of the Wiretap Act; or (b) statutory damages in the amount of \$100 a day for  
2 each day of violation or \$10,000, whichever is greater.

3 146. Plaintiff and Class Members also seek punitive damages, reasonable  
4 attorney's fees and other litigation costs reasonably incurred.  
5

6 147. Moreover, unless and until enjoined and restrained by order of this Court,  
7 Defendant Facebook's wrongful conduct will continue to cause great and irreparable  
8 injury to Plaintiff and Class Members in that Facebook and others can continue to use  
9 the unlawfully obtained personal information to Plaintiff's and Class Members'  
10 detriment. Plaintiff and Class Members have no adequate remedy at law for the injuries  
11 in that a judgment for monetary damages will not end the invasion of privacy for  
12 Plaintiff and Class Members.  
13  
14

15 **COUNT FIVE**  
16 **WIRETAP ACT, 18 U.S.C. § 2511(1)(d)**  
17 **(On behalf of the National Class Against Defendant LinkedIn)**

18 148. Plaintiff restates and realleges all paragraphs of this First Amended Class  
19 Action Complaint as though fully set forth herein.  
20

21 149. The electronic communications between third-party platforms, on the one  
22 hand, and Plaintiff and Class Members, on the other, constitute electronic  
23 communications under the Wiretap Act, 18 U.S.C. § 2510(12), as they consist of the  
24 transfer of signs, signals, writing, images, sounds, data or intelligence transmitted in  
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1 whole or in part by wire, radio, electromagnetic, photoelectronic or photooptical system  
2 that affect interstate commerce.

3 150. As alleged herein, the electronic communications between third-party  
4 platforms, on the one hand, and Plaintiff and Class Members on the other, constitute  
5 the contents of an electronic communication because the information communicated  
6 concerned the substance, purport and meaning of the communication.  
7

8 151. Defendant LinkedIn intentionally used, and endeavored to use, the  
9 contents of electronic communications between third-party platforms, on the one hand,  
10 and Plaintiff and Class Members, on the other. Specifically, LinkedIn used, and  
11 endeavored to use, the contents of the communications to increase sales of its services  
12 and products.  
13

14 152. Defendant LinkedIn was not a party to the electronic communications.  
15

16 153. Defendant LinkedIn knew, and had reason to know, that the information  
17 at issue was obtained through the interception of electronic communications between  
18 third-party platforms, on the one hand, and Plaintiff and Class Members, on the other,  
19 because LinkedIn was directly involved in the interception.  
20

21 154. Defendant LinkedIn intercepted, and endeavored to intercept, the  
22 electronic communications at issue contemporaneously with the occurrence of those  
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1 communications, but separately from the actual communications between the  
2 participants to the communications.

3 155. Defendant LinkedIn intercepted and endeavored to intercept the contents  
4 of the electronic communications at issue without obtaining or receiving the consent or  
5 authorization of any party to the electronic communications.  
6

7 156. Defendant LinkedIn's conduct violated the Wiretap Act.  
8

9 157. As a direct and proximate result of Defendant LinkedIn's violation of the  
10 Wiretap Act, Plaintiff's and Class Members' personal information was disclosed by  
11 LinkedIn to others, causing Plaintiff and Class Members to suffer injuries.  
12

13 158. Plaintiff and Class Members seek the greater of: (a) the sum of actual  
14 damages they suffered and any profits made by Defendant LinkedIn as a result of its  
15 violations of the Wiretap Act; or (b) statutory damages in the amount of \$100 a day for  
16 each day of violation or \$10,000, whichever is greater.  
17

18 159. Plaintiff and Class Members also seek punitive damages, reasonable  
19 attorney's fees and other litigation costs reasonably incurred.  
20

21 160. Moreover, unless and until enjoined and restrained by order of this Court,  
22 Defendant LinkedIn's wrongful conduct will continue to cause great and irreparable  
23 injury to Plaintiff and Class Members in that LinkedIn and others can continue to use  
24 the unlawfully obtained personal information to Plaintiff's and Class Members'  
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1 detriment. Plaintiff and Class Members have no adequate remedy at law for the injuries  
2 in that a judgment for monetary damages will not end the invasion of privacy for  
3 Plaintiff and Class Members or require LinkedIn to retrieve the personal information  
4 from the unauthorized entities to which it was disclosed.  
5

6 **COUNT SIX**  
7 **STORED COMMUNICATIONS ACT, 18 U.S.C. § 2701(a)(1)**  
8 **(On behalf of the National Class Against Defendant Facebook)**

9 161. Plaintiff restates and realleges all paragraphs of this First Amended Class  
10 Action Complaint as though fully set forth herein.

11 162. This count is alleged in the alternative to Counts One and Four.

12 163. The login and other communications between third-party apps, on the one  
13 hand, and Plaintiff and Class Members, on the other, constitute electronic  
14 communications under the Wiretap Act, 18 U.S.C. § 2510(12), as they consist of the  
15 transfer of signs, signals, writing, images, sounds, data or intelligence transmitted in  
16 whole or in part by wire, radio, electromagnetic, photoelectronic or photooptical system  
17 that affect interstate commerce.  
18  
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21 164. The servers of the third-party app operators were electronic  
22 communication services because they provided users the ability to receive electronic  
23 communications, as alleged herein, among other communications.  
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1           165. After Plaintiff and Class Members provided the third-party apps with their  
2 electronic information, the third-party apps' operators electronically stored that  
3 electronic communication on their servers as temporary or intermediate storage or to  
4 provide backup protection of those communications.  
5

6           166. Defendant Facebook willfully and intentionally accessed without  
7 authorization facilities through which electronic communication services were provided  
8 – namely, the servers of the third-party apps' operators – and thereby obtained access  
9 to the electronic communications at issue while they were in electronic storage in the  
10 servers.  
11

12           167. Defendant Facebook's conduct violated the Stored Communications Act.  
13

14           168. As a direct and proximate result of Defendant Facebook's violation of the  
15 Stored Communications Act, Plaintiff's and Class Members' personal information was  
16 obtained by Facebook, causing Plaintiff and Class Members to suffer injuries.  
17

18           169. Plaintiff and Class Members seek the sum of actual damages they suffered  
19 and any profits made by Defendant Facebook as a result of its violations of the Stored  
20 Communications Act, which in no case may be less than \$1,000.  
21

22           170. Plaintiff and Class Members also seek punitive damages, reasonable  
23 attorney's fees and other litigation costs reasonably incurred.  
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1 171. Moreover, unless and until enjoined and restrained by order of this Court,  
2 Defendant Facebook's wrongful conduct will continue to cause great and irreparable  
3 injury to Plaintiff and Class Members in that Facebook and others can continue to use  
4 the unlawfully obtained personal information to Plaintiff's and Class Members'  
5 detriment. Plaintiff and Class Members have no adequate remedy at law for the injuries  
6 in that a judgment for monetary damages will not end the invasion of privacy for  
7 Plaintiff and Class Members.  
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9

10 **COUNT SEVEN**  
11 **STORED COMMUNICATIONS ACT, 18 U.S.C. § 2701(a)(1)**  
12 **(On behalf of the National Class Against Defendant LinkedIn)**

13 172. Plaintiff restates and realleges all paragraphs of this First Amended Class  
14 Action Complaint as though fully set forth herein.

15 173. This count is alleged in the alternative to Counts Two, Three and Five.

16 174. The login and other communications between third-party platforms, on the  
17 one hand, and Plaintiff and Class Members, on the other, constitute electronic  
18 communications under the Wiretap Act, 18 U.S.C. § 2510(12), as they consist of the  
19 transfer of signs, signals, writing, images, sounds, data or intelligence transmitted in  
20 whole or in part by wire, radio, electromagnetic, photoelectronic or photooptical system  
21 that affect interstate commerce.  
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1           175. The servers of third-party platforms operators were electronic  
2 communication services because they provided users the ability to receive electronic  
3 communications, as alleged herein, among other communications.  
4

5           176. After Plaintiff and Class Members provided the third-party platforms with  
6 their electronic login information, the third-party platforms' operators electronically  
7 stored that electronic communication on their servers as temporary or intermediate  
8 storage or to provide backup protection of those communications.  
9

10           177. Defendant LinkedIn willfully and intentionally accessed without  
11 authorization facilities through which electronic communication services were provided  
12 – namely, the servers of the third-party platforms' operators – and thereby obtained  
13 access to the electronic communications at issue while they were in electronic storage  
14 in the servers.  
15

16           178. Defendant LinkedIn's conduct violated the Stored Communications Act.  
17

18           179. As a direct and proximate result of Defendant LinkedIn's violation of the  
19 Stored Communications Act, Plaintiff's and Class Members' personal information was  
20 obtained by LinkedIn, causing Plaintiff and Class Members to suffer injuries.  
21

22           180. Plaintiff and Class Members seek the sum of actual damages they suffered  
23 and any profits made by Defendant LinkedIn as a result of its violations of the Stored  
24 Communications Act, which in no case may be less than \$1,000.  
25

1 181. Plaintiff and Class Members also seek punitive damages, reasonable  
2 attorney's fees and other litigation costs reasonably incurred.

3 182. Moreover, unless and until enjoined and restrained by order of this Court,  
4 Defendant LinkedIn's wrongful conduct will continue to cause great and irreparable  
5 injury to Plaintiff and Class Members in that LinkedIn and others can continue to use  
6 the unlawfully obtained personal information to Plaintiff's and Class Members'  
7 detriment. Plaintiff and Class Members have no adequate remedy at law for the injuries  
8 in that a judgment for monetary damages will not end the invasion of privacy for  
9 Plaintiff and Class Members or require LinkedIn to retrieve the personal information  
10 from the unauthorized entities to which it was disclosed.  
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14 **COUNT EIGHT**  
15 **CALIFORNIA INVASION OF PRIVACY ACT, CAL. PEN. CODE § 631**  
16 **(On behalf of the California Subclass against Defendant Facebook)**

17 183. Plaintiff restates and realleges all paragraphs of this First Amended Class  
18 Action Complaint as though fully set forth herein.

19 184. Defendant Facebook willfully and without the consent of all parties to  
20 communications between Plaintiff and Class Members, on the one hand, and the third-  
21 party apps, on the other – namely, the electronic communications, as alleged herein,  
22 among others – in an unauthorized manner read, attempted to read and learned the  
23 contents and meaning of the messages, reports and communications between those  
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1 parties while the same were in transit and passing over any wire, line or cable and were  
2 being sent from and received within the State of California.

3 185. Defendant Facebook collected the personal information by willfully and  
4 intentionally using a recording device to record and eavesdrop on, and by otherwise  
5 reading, attempting to read and learning the contents and meaning of, communications  
6 between the Plaintiff's and Class Members' computers and devices and the servers of  
7 third-party apps' operators while the same were in transit and passing over any wire,  
8 line or cable and were being sent from and received within the State of California.  
9 Facebook engaged in this conduct in an unauthorized manner and without Plaintiff's  
10 and Class Members' knowledge or consent. As alleged herein, Plaintiff and Class  
11 Members had a reasonable expectation of privacy in the communications and  
12 reasonably believed the communications were confidential.  
13

14 186. Plaintiff and Class Members did not authorize or consent to the conduct in  
15 the paragraph above.  
16

17 187. Defendant Facebook was not a party to the above-described  
18 communications.  
19

20 188. Defendant Facebook's conduct was designed to read, attempt to read and  
21 learn at least some of the meaning of the content of the communications between  
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1 Plaintiff's and Class Members' computers and devices and the servers of third-party  
2 apps' operators.

3 189. Defendant Facebook's conduct violated the California Invasion of Privacy  
4 Act, Cal. Pen. Code, § 631.

5  
6 190. As a direct and proximate result of Defendant Facebook's violation of the  
7 California Invasion of Privacy Act, Plaintiff's and Class Members' personal  
8 information was disclosed to Facebook, causing Plaintiff and Class Members to suffer  
9 injuries.  
10

11 191. Plaintiff and Class Members seek the greater of \$5,000 per violation or  
12 three times the amount of actual damages.  
13

14 192. Moreover, unless and until enjoined and restrained by order of this Court,  
15 Defendant Facebook's wrongful conduct will continue to cause great and irreparable  
16 injury to Plaintiff and Class Members in that Facebook and others can continue to use  
17 the unlawfully obtained personal information to Plaintiff's and Class Members'  
18 detriment. Plaintiff and Class Members have no adequate remedy at law for the injuries  
19 in that a judgment for monetary damages will not end the invasion of privacy for  
20 Plaintiff and Class Members.  
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**COUNT NINE**  
**CALIFORNIA INVASION OF PRIVACY ACT, CAL. PEN. CODE § 631**  
**(On behalf of the California Subclass against Defendant LinkedIn)**

193. Plaintiff restates and realleges all paragraphs of this First Amended Class Action Complaint as though fully set forth herein.

194. Defendant LinkedIn willfully and without the consent of all parties to communications between Plaintiff and Class Members, on the one hand, and the third-party platforms, on the other – namely, the electronic communications, as alleged herein, among others – in an unauthorized manner read, attempted to read and learned the contents and meaning of the messages, reports and communications between those parties while the same were in transit and passing over any wire, line or cable and were being sent from and received within the State of California.

195. Defendant LinkedIn collected the personal information by willfully and intentionally using a recording device to record and eavesdrop on, and by otherwise reading, attempting to read and learning the contents and meaning of, communications between the Plaintiff's and Class Members' computers and devices and the servers of third-party platforms' operators while the same were in transit and passing over any wire, line or cable and were being sent from and received within the State of California. LinkedIn engaged in this conduct in an unauthorized manner and without Plaintiff's and Class Members' knowledge or consent. As alleged herein, Plaintiff and Class

1 Members had a reasonable expectation of privacy in the communications and  
2 reasonably believed the communications were confidential.

3 196. Plaintiff and Class Members did not authorize or consent to the conduct in  
4 the paragraph above.

5 197. Defendant LinkedIn was not a party to the above-described  
6 communications.

7 198. Defendant LinkedIn's conduct was designed to read, attempt to read and  
8 learn at least some of the meaning of the content of the communications between  
9 Plaintiff's and Class Members' computers and devices and the servers of third-party  
10 platforms' operators.

11 199. Defendant LinkedIn's conduct violated the California Invasion of Privacy  
12 Act, Cal. Pen. Code, § 631.

13 200. As a direct and proximate result of Defendant LinkedIn's violation of the  
14 California Invasion of Privacy Act, Plaintiff's and Class Members' personal  
15 information was disclosed to LinkedIn, causing Plaintiff and Class Members to suffer  
16 injuries.

17 201. Plaintiff and Class Members seek the greater of \$5,000 per violation or  
18 three times the amount of actual damages.



202. Moreover, unless and until enjoined and restrained by order of this Court, Defendant LinkedIn's wrongful conduct will continue to cause great and irreparable injury to Plaintiff and Class Members in that LinkedIn and others can continue to use the unlawfully obtained personal information to Plaintiff's and Class Members' detriment. Plaintiff and Class Members have no adequate remedy at law for the injuries in that a judgment for monetary damages will not end the invasion of privacy for Plaintiff and Class Members or require LinkedIn to retrieve the personal information from the unauthorized entities to which it was disclosed.

**COUNT TEN**  
**CALIFORNIA INVASION OF PRIVACY ACT, CAL. PEN. CODE § 632**  
**(On behalf of the California Subclass against Defendant Facebook)**

203. Plaintiff restates and realleges all paragraphs of this First Amended Class Action Complaint as though fully set forth herein.

204. Defendant Facebook intentionally and without the consent of all parties to confidential communications between Plaintiff and Class Members, on the one hand, and third-party platforms, on the other – namely, the electronic communications, as alleged herein, among others – used a recording device to eavesdrop upon and record the confidential communications.

205. Plaintiff and Class Members did not authorize or consent to the conduct in the paragraph above.

1       206. As alleged herein, Plaintiff and Class Members had a reasonable  
2 expectation of privacy in the above-described communications and reasonably expected  
3 them to be confidential.

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5       207. Defendant Facebook was not a party to the above-described  
6 communications.

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8       208. Defendant Facebook's conduct was designed to read, attempt to read and  
9 learn at least some of the meaning of the content of the communications between  
10 Plaintiff's and Class Members' computers and devices and the servers of third-party  
11 apps' operators.

12  
13       209. The following items, among others, constitute recording devices within the  
14 meaning of the California Invasion of Privacy Act:

- 15           a. The Third-Party Platforms;  
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17           b. The Login with Facebook Feature;  
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19           c. Plaintiff's and Class Members' web browsers;  
20  
21           d. Plaintiff's and Class Members' mobile operating systems;  
22  
23           e. The Third-Party Platforms' Servers; and  
24  
25           f. The servers and websites from which Defendant Facebook tracked,  
26 intercepted and recorded Plaintiff's and Class Members'  
27 communications with third-party platforms.  
28

1           210. Defendant Facebook's conduct violated the California Invasion of Privacy  
2 Act, Cal. Pen. Code, § 632.

3           211. As a direct and proximate result of Defendant Facebook's violation of the  
4 California Invasion of Privacy Act, Plaintiff's and Class Members' personal  
5 information was disclosed to Facebook, causing Plaintiff and Class Members to suffer  
6 injuries.  
7

8           212. Plaintiff and Class Members seek the greater of \$5,000 per violation or  
9 three times the amount of actual damages.  
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11           213. Moreover, unless and until enjoined and restrained by order of this Court,  
12 Defendant Facebook's wrongful conduct will continue to cause great and irreparable  
13 injury to Plaintiff and Class Members in that Facebook and others can continue to use  
14 the unlawfully obtained personal information to Plaintiff's and Class Members'  
15 detriment. Plaintiff and Class Members have no adequate remedy at law for the injuries  
16 in that a judgment for monetary damages will not end the invasion of privacy for  
17 Plaintiff and Class Members.  
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LOEVY & LOEVY  
Attorneys at Law

**COUNT ELEVEN**  
**CALIFORNIA INVASION OF PRIVACY ACT, CAL. PEN. CODE § 632**  
**(On behalf of the California Subclass against Defendant LinkedIn)**

214. Plaintiff restates and realleges all paragraphs of this First Amended Class Action Complaint as though fully set forth herein.

215. Defendant LinkedIn intentionally and without the consent of all parties to confidential communications between Plaintiff and Class Members, on the one hand, and third-party platforms, on the other – namely, the electronic communications, as alleged herein, among others – used a recording device to eavesdrop upon and record the confidential communications.

216. Plaintiff and Class Members did not authorize or consent to the conduct in the paragraph above.

217. As alleged herein, Plaintiff and Class Members had a reasonable expectation of privacy in the above-described communications and reasonably expected them to be confidential.

218. Defendant LinkedIn was not a party to the above-described communications.

219. Defendant LinkedIn's conduct was designed to read, attempt to read and learn at least some of the meaning of the content of the communications between

1 Plaintiff's and Class Members' computers and devices and the servers of third-party  
2 platforms' operators.

3 220. The following items, among others, constitute recording devices within the  
4 meaning of the California Invasion of Privacy Act:  
5

- 6 a. The Third-Party Platforms;
- 7 b. The Navigator API;
- 8 c. Plaintiff's and Class Members' web browsers;
- 9 d. Plaintiff's and Class Members' mobile operating systems;
- 10 e. The Third-Party Platforms' Servers; and
- 11 f. The servers and websites from which Defendant Facebook tracked,  
12 intercepted and recorded Plaintiff's and Class Members'  
13 communications with third-party platforms.  
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16

17 221. Defendant LinkedIn's conduct violated the California Invasion of Privacy  
18 Act, Cal. Pen. Code, § 632.

19 222. As a direct and proximate result of Defendant LinkedIn's violation of the  
20 California Invasion of Privacy Act, Plaintiff's and Class Members' personal  
21 information was disclosed to LinkedIn, causing Plaintiff and Class Members to suffer  
22 injuries.  
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1           223. Plaintiff and Class Members seek the greater of \$5,000 per violation or  
2 three times the amount of actual damages.

3           224. Moreover, unless and until enjoined and restrained by order of this Court,  
4 Defendant LinkedIn's wrongful conduct will continue to cause great and irreparable  
5 injury to Plaintiff and Class Members in that LinkedIn and others can continue to use  
6 the unlawfully obtained personal information to Plaintiff's and Class Members'  
7 detriment. Plaintiff and Class Members have no adequate remedy at law for the injuries  
8 in that a judgment for monetary damages will not end the invasion of privacy for  
9 Plaintiff and Class Members or require LinkedIn to retrieve the personal information  
10 from the unauthorized entities to which it was disclosed.  
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14                                   **COUNT TWELVE**  
15                                   **INTRUSION UPON SECLUSION**  
16                                   **(On behalf of the Intrusion Upon Seclusion Subclass**  
17                                   **against Defendant Facebook)**

18           225. Plaintiff restates and realleges all paragraphs of this First Amended Class  
19 Action Complaint as though fully set forth herein.

20           226. Plaintiff and Class Members had a reasonable expectation of privacy to  
21 their personal information and were entitled to protection of this information against  
22 disclosure to unauthorized third parties.

23           227. Defendant Facebook intentionally and maliciously intruded upon  
24 Plaintiff's and Class Members' privacy rights by surreptitiously learning the contents  
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1 and meaning of Plaintiff's and Class Members' communications with third-party apps,  
2 which contents contained personal information and allowed Facebook to identify  
3 Plaintiff and Class Members even if they did not want to be identified. Facebook's  
4 intrusion occurred in a manner highly offensive to a reasonable person.  
5

6 228. Defendant Facebook's intrusion upon Plaintiff's and Class Members'  
7 privacy rights was so serious as to constitute an egregious breach of social norms such  
8 that the breach was highly offensive.  
9

10 229. As a direct and proximate result of Defendant Facebook's unlawful  
11 intrusion upon Plaintiff's and Class Members' seclusion, Plaintiff's and Class  
12 Members' personal information has been disclosed to Facebook, and their reasonable  
13 expectations of privacy have been intruded upon and frustrated.  
14

15 230. Plaintiff and Class Members have suffered injuries as a result of Defendant  
16 Facebook's conduct, and they are entitled to appropriate relief, including compensatory  
17 and punitive damages.  
18

19 231. Moreover, unless and until enjoined and restrained by order of this Court,  
20 Defendant Facebook's wrongful conduct will continue to cause great and irreparable  
21 injury to Plaintiff and Class Members in that Facebook and others can continue to use  
22 the unlawfully obtained personal information to Plaintiff's and Class Members'  
23 detriment. Plaintiff and Class Members have no adequate remedy at law for the injuries  
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1 in that a judgment for monetary damages will not end the invasion of privacy for  
2 Plaintiff and Class Members.

3  
4 **COUNT THIRTEEN**  
5 **INTRUSION UPON SECLUSION**  
6 **(On behalf of the Intrusion Upon Seclusion Subclass**  
7 **against Defendant LinkedIn)**

8 232. Plaintiff restates and realleges all paragraphs of this First Amended Class  
9 Action Complaint as though fully set forth herein.

10 233. Plaintiff and Class Members had a reasonable expectation of privacy to  
11 their personal information and were entitled to protection of this information against  
12 disclosure to unauthorized third parties.

13 234. Defendant LinkedIn intentionally and maliciously intruded upon  
14 Plaintiff's and Class Members' privacy rights by surreptitiously learning the contents  
15 and meaning of Plaintiff's and Class Members' communications with third-party  
16 platforms, which contents contained personal information and allowed LinkedIn to  
17 identify Plaintiff and Class Members even if they did not want to be identified.  
18 LinkedIn's intrusion occurred in a manner highly offensive to a reasonable person, as a  
19 reasonable person would not expect a third party to surreptitiously learn the contents of  
20 the person's communications.  
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1           235. Defendant LinkedIn's intrusion upon Plaintiff's and Class Members'  
2 privacy rights was so serious as to constitute an egregious breach of social norms such  
3 that the breach was highly offensive.  
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5           236. As a direct and proximate result of Defendant LinkedIn's unlawful  
6 intrusion upon Plaintiff's and Class Members' seclusion, Plaintiff's and Class  
7 Members' personal information has been disclosed to LinkedIn, and their reasonable  
8 expectations of privacy have been intruded upon and frustrated.  
9

10           237. Plaintiff and Class Members have suffered injuries as a result of Defendant  
11 LinkedIn's conduct, and they are entitled to appropriate relief, including compensatory  
12 and punitive damages.  
13

14           238. Moreover, unless and until enjoined and restrained by order of this Court,  
15 Defendant LinkedIn's wrongful conduct will continue to cause great and irreparable  
16 injury to Plaintiff and Class Members in that LinkedIn and others can continue to use  
17 the unlawfully obtained personal information to Plaintiff's and Class Members'  
18 detriment. Plaintiff and Class Members have no adequate remedy at law for the injuries  
19 in that a judgment for monetary damages will not end the invasion of privacy for  
20 Plaintiff and Class Members or require LinkedIn to retrieve the personal information  
21 from the unauthorized entities to which it was disclosed.  
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**COUNT FOURTEEN**  
**INVASION OF PRIVACY UNDER CALIFORNIA CONSITUTION –**  
**ARTICLE I, SECTION 1**  
**(On behalf of the California Subclass against Defendant Facebook)**

239. Plaintiff restates and realleges all paragraphs of this First Amended Class Action Complaint as though fully set forth herein.

240. Plaintiff and Class Members had a reasonable expectation of privacy to their personal information and were entitled to protection of this information against disclosure to unauthorized third parties. As such, Plaintiff and Class Members possessed a legally protected privacy interest.

241. Defendant Facebook intentionally and maliciously intruded upon Plaintiff's and Class Members' privacy rights by surreptitiously learning the contents and meaning of Plaintiff's and Class Members' communications with third-party apps, which contents contained personal information and allowed Facebook to identify Plaintiff and Class Members even if they did not want to be identified. Facebook's intrusion occurred in a manner highly offensive to a reasonable person, as a reasonable person would not expect a third party to surreptitiously learn the contents of the person's communications.

242. Moreover, as alleged above, Defendant Facebook's intrusion upon Plaintiff's and Class Members' privacy rights was so serious as to constitute an egregious breach of social norms such that the breach was highly offensive.

1           243. As a direct and proximate result of Defendant Facebook's unlawful  
2 invasion of Plaintiff's and Class Members' privacy, Plaintiff's and Class Members'  
3 personal information has been disclosed to Facebook, and their reasonable expectations  
4 of privacy have been intruded upon and frustrated.

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6           244. Plaintiff and Class Members have suffered injuries as a result of Defendant  
7 Facebook's conduct, and they are entitled to appropriate relief, including compensatory  
8 and punitive damages.

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10           245. Moreover, unless and until enjoined and restrained by order of this Court,  
11 Defendant Facebook's wrongful conduct will continue to cause great and irreparable  
12 injury to Plaintiff and Class Members in that Facebook and others can continue to use  
13 the unlawfully obtained personal information to Plaintiff's and Class Members'  
14 detriment. Plaintiff and Class Members have no adequate remedy at law for the injuries  
15 in that a judgment for monetary damages will not end the invasion of privacy for  
16 Plaintiff and Class Members.  
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**COUNT FIFTEEN**  
**INVASION OF PRIVACY UNDER CALIFORNIA CONSTITUTION –**  
**ARTICLE I, SECTION 1**  
**(On behalf of the California Subclass against Defendant LinkedIn)**

246. Plaintiff restates and realleges all paragraphs of this First Amended Class Action Complaint as though fully set forth herein.

247. Plaintiff and Class Members had a reasonable expectation of privacy to their personal information and were entitled to protection of this information against disclosure to unauthorized third parties. As such, Plaintiff and Class Members possessed a legally protected privacy interest.

248. Defendant LinkedIn intentionally and maliciously intruded upon Plaintiff's and Class Members' privacy rights by surreptitiously learning the contents and meaning of Plaintiff's and Class Members' communications with third-party platforms, which contents contained personal information and allowed LinkedIn to identify Plaintiff and Class Members even if they did not want to be identified. LinkedIn's intrusion occurred in a manner highly offensive to a reasonable person, as a reasonable person would not expect a third party to surreptitiously learn the contents of the person's communications.

249. Moreover, as alleged above, Defendant LinkedIn's intrusion upon Plaintiff's and Class Members' privacy rights was so serious as to constitute an egregious breach of social norms such that the breach was highly offensive.

1           250. As a direct and proximate result of Defendant LinkedIn's unlawful  
2 invasion of Plaintiff's and Class Members' privacy, Plaintiff's and Class Members'  
3 personal information has been disclosed to LinkedIn, and their reasonable expectations  
4 of privacy have been intruded upon and frustrated.

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6           251. Plaintiff and Class Members have suffered injuries as a result of Defendant  
7 LinkedIn's conduct, and they are entitled to appropriate relief, including compensatory  
8 and punitive damages.

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10           252. Moreover, unless and until enjoined and restrained by order of this Court,  
11 Defendant LinkedIn's wrongful conduct will continue to cause great and irreparable  
12 injury to Plaintiff and Class Members in that LinkedIn and others can continue to use  
13 the unlawfully obtained personal information to Plaintiff's and Class Members'  
14 detriment. Plaintiff and Class Members have no adequate remedy at law for the injuries  
15 in that a judgment for monetary damages will not end the invasion of privacy for  
16 Plaintiff and Class Members or require LinkedIn to retrieve the personal information  
17 from the unauthorized entities to which it was disclosed.  
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**COUNT SIXTEEN**  
**UNLAWFUL AND UNFAIR BUSINESS PRACTICES**  
**IN VIOLATION OF BUS. & PROF. CODE § 17200, *et seq.***  
**(On behalf of the California Subclass against Defendant Facebook)**

253. Plaintiff restates and realleges all paragraphs of this First Amended Class Action Complaint as though fully set forth herein.

254. California's Unfair Competition Law (the "UCL") prohibits any "unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising." Cal. Bus. & Prof. Code § 17200.

255. Defendant Facebook engaged in unlawful, unfair and fraudulent business acts and practices within the meaning of the UCL.

256. Defendant Facebook has engaged in the following unlawful, unfair and fraudulent business acts and practices:

- a. Failing to comply with the Wiretap Act, 18 U.S.C. § 2511, as alleged above;
- b. Failing to comply with the Stored Communications Act, 18 U.S.C. § 2701, as alleged above;
- c. Failing to comply with the California Invasion of Privacy Act, Cal. Pen. Code §§ 631-632, as alleged above;
- d. Intrusion upon seclusion, as alleged above;

- e. Invasion of privacy under the California Constitution, Art. I, § 1, as alleged above;
- f. Failing to comply with the § 1798.100(b) of the CCPA;
- g. Failing to comply with § 5 of the FTC Act (15 U.S.C. § 45);
- h. Unfair competition in lessening the value of Plaintiff's and Class Members' personal information, which they could sell elsewhere;
- i. Omitting, suppressing and concealing that it did not comply with common law and statutory duties pertaining to Plaintiff's and Class Members' personal information, including duties imposed by the Wiretap Act, 18 U.S.C. § 2511; the Stored Communications Act, 18 U.S.C. § 2701; California Constitution, Art. I, § I; the California Invasion of Privacy Act, Cal. Pen. Code §§ 631-632; the CCPA, Cal. Civ. Code § 1798.100(b); and § 5 of the FTC Act, 15 U.S.C. § 45.

257. With respect to Defendant Facebook's violations of the CCPA, pursuant to Cal. Civ. Code § 1798.100(b), a business: (a) "that collects a consumer's personal information shall, at or before the point of collection, inform customers as to the categories of personal information to be collected and the purposes for which the categories of personal information shall be used"; and (b) "shall not collect additional categories of personal information or use personal information collected for additional

1 purposes without providing the consumer with notice consistent with this section.” Cal.  
 2 Civ. Code § 1798.100(b).

3 258. Section 1798.140(o)(1) defines “personal information” as “information  
 4 that identifies, relates to, describes, is reasonably capable of being associated with, or  
 5 could reasonably be linked, directly or indirectly, with a particular consumer or  
 6 household,” Cal. Civ. Code § 1798.140(o)(1). Personal information includes, but is not  
 7 limited to:  
 8  
 9

10 (A) Identifiers such as a real name, alias, postal address, unique  
 11 personal identifier, online identifier, internet protocol address, email  
 12 address, account name, social security number, driver’s license  
 13 number, passport number, or other similar identifiers.

14 \* \* \*

15 (F) Internet or other electronic network activity information,  
 16 including, but not limited to, browsing history, search history, and  
 17 information regarding a consumer’s interaction with an internet  
 18 website, application, or advertisement.

19 (G) Geolocation data.

20 *Id.*

21 259. Plaintiff and Class Members are consumers under the CCPA. *See* Cal. Civ.  
 22 Code § 1798.140(g).

23 260. Defendant Facebook is a business under the CCPA. *See* Cal. Civ. Code §  
 24 1798.140(c).  
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1        261. As alleged herein, in violation of the CCPA, Defendant Facebook  
2 collected Plaintiff's and Class Members' personal information but failed to provide  
3 Plaintiff and Class Members with the information required by the CCPA, namely  
4 Facebook failed to accurately inform Plaintiff and Class Members as to the categories  
5 of personal information to be collected and the purposes for which the categories of  
6 personal information were to be used.  
7

8        262. As alleged herein, Defendant Facebook further violated the CCPA by  
9 using the personal information it collected from Plaintiff and Class Members for  
10 undisclosed purposes without providing the requisite notice.  
11

12        263. With respect to Defendant Facebook's violation of § 5 of the FTC Act, the  
13 FTC has brought numerous actions against businesses for their unfair and deceptive  
14 practices in harvesting personal information from a software application.  
15

16        264. At relevant times, Defendant Facebook knew of its obligations to act fairly  
17 and honestly in its business dealings and not to violate § 5 of the FTC Act.  
18

19        265. Defendant Facebook's conduct with respect to Plaintiff's and Class  
20 Members' personal information constituted an unfair and deceptive practice in violation  
21 of § 5 of the FTC Act.  
22

23        266. Defendant Facebook's above-described conduct constituted unfair  
24 practices in violation of the UCL because the practices and acts: (a) were immoral,  
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1 unethical, oppressive, unscrupulous and substantially injurious to Plaintiff and Class  
2 Members; and (b) violated established public policy. These acts caused substantial  
3 injury to Plaintiff and Class Members; this substantial injury outweighed any benefits  
4 to competition or the purpose of such conduct, and there were reasonably available  
5 alternatives to further Facebook's legitimate business interests.  
6

7       267. By collecting, disclosing and using Plaintiff's and Class Members'  
8 personal information in ways that Plaintiff and Class Members did not know of or  
9 consent to, Defendant Facebook engaged in fraudulent business practices that were  
10 likely to deceive a reasonable consumer.  
11

12       268. A reasonable person would not have agreed to use the various third-party  
13 apps at issue had Defendant Facebook not concealed, omitted and suppressed the truth  
14 about its practices, as alleged herein. By withholding material information about its  
15 practices, Facebook deceived customers into using products that allowed Facebook to  
16 surreptitiously collect Plaintiff's and Class Members' personal information.  
17 Accordingly, Facebook's conduct also was fraudulent within the meaning of the UCL.  
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19       269. As a result of Defendant Facebook's violations of the UCL, Plaintiff and  
20 Class Members have suffered an injury-in-fact and have lost money and property.  
21 Plaintiff and Class Members are entitled to restitution and disgorgement, declaratory  
22 and other equitable relief.  
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270. Moreover, Plaintiff and Class Members are entitled to injunctive relief. Unless and until enjoined and restrained by order of this Court, Defendant Facebook's wrongful conduct will continue to cause great and irreparable injury to Plaintiff and Class Members in that Facebook and others can continue to use the unlawfully obtained personal information to Plaintiff's and Class Members' detriment. Plaintiff and Class Members have no adequate remedy at law for the injuries in that a judgment for monetary damages will not end the invasion of privacy for Plaintiff and Class Members.

**COUNT SEVENTEEN**  
**UNLAWFUL AND UNFAIR BUSINESS PRACTICES**  
**IN VIOLATION OF BUS. & PROF. CODE § 17200, *et seq.***  
**(On behalf of the California Subclass against Defendant LinkedIn)**

271. Plaintiff restates and realleges all paragraphs of this First Amended Class Action Complaint as though fully set forth herein.

272. California's Unfair Competition Law (the "UCL") prohibits any "unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising." Cal. Bus. & Prof. Code § 17200.

273. Defendant LinkedIn engaged in unlawful, unfair and fraudulent business acts and practices within the meaning of the UCL.

274. Defendant LinkedIn has engaged in the following unlawful, unfair and fraudulent business acts and practices:

- a. Violation of the Wiretap Act, 18 U.S.C. § 2511, as alleged above;
- b. Violation of the Stored Communications Act, 18 U.S.C. § 2701, as alleged above;
- c. Failing to comply with the California Invasion of Privacy Act, Cal. Pen. Code §§ 631-632, as alleged above;
- d. Intrusion upon seclusion, as alleged above;
- e. Invasion of privacy under the California Constitution, Art. I, § 1, as alleged above;
- f. Failing to comply with § 1798.100(b) of the CCPA;
- g. Failing to comply with § 5 of the FTC Act (15 U.S.C. § 45);
- h. Unfair competition in lessening the value of Plaintiff's and Class Members' personal information, which they could sell elsewhere;
- i. Omitting, suppressing and concealing that it did not comply with common law and statutory duties pertaining to Plaintiff's and Class Members' personal information, including duties imposed by the Wiretap Act, 18 U.S.C. § 2511; the Stored Communications Act, 18 U.S.C. § 2701; California Constitution, Art. I, § I; the California Invasion of Privacy Act, Cal. Pen. Code §§ 631-632; the CCPA, Cal. Civ. Code § 1798.100(b); and § 5 of the FTC Act, 15 U.S.C. § 45.

275. With respect to Defendant LinkedIn’s violations of the CCPA, pursuant to Cal. Civ. Code § 1798.100(b), a business: (a) “that collects a consumer’s personal information shall, at or before the point of collection, inform customers as to the categories of personal information to be collected and the purposes for which the categories of personal information shall be used”; and (b) “shall not collect additional categories of personal information or use personal information collected for additional purposes without providing the consumer with notice consistent with this section.” Cal. Civ. Code § 1798.100(b).

(A) Identifiers such as a real name, alias, postal address, unique personal identifier, online identifier, internet protocol address, email address, account name, social security number, driver's license number, passport number, or other similar identifiers.

(F) Internet or other electronic network activity information, including, but not limited to, browsing history, search history, and

information regarding a consumer's interaction with an internet website, application, or advertisement.

(G) Geolocation data.

*Id.*

277. Plaintiff and Class Members are consumers under the CCPA. *See* Cal. Civ. Code § 1798.140(g).

278. Defendant LinkedIn is a business under the CCPA. *See* Cal. Civ. Code § 1798.140(c).

279. As alleged herein, in violation of the CCPA, Defendant LinkedIn collected Plaintiff's and Class Members' personal information but failed to provide Plaintiff and Class Members with the information required by the CCPA, namely, LinkedIn failed to accurately inform Plaintiff and Class Members as to the categories of personal information to be collected and the purposes for which the categories of personal information were to be used.

280. As alleged herein, Defendant LinkedIn further violated the CCPA by using the personal information it collected from Plaintiff and Class Members for undisclosed purposes without providing the requisite notice.

281. With respect to Defendant LinkedIn's violation of § 5 of the FTC Act, the FTC has brought numerous actions against businesses for their unfair and deceptive practices in harvesting personal information from a software application.

1           282. At relevant times, Defendant LinkedIn knew of its obligations to act fairly  
2 and honestly in its business dealings and not to violate § 5 of the FTC Act.

3           283. Defendant LinkedIn's conduct with respect to Plaintiff's and Class  
4 Members' personal information constituted an unfair and deceptive practice in violation  
5 of § 5 of the FTC Act.

6           284. Defendant LinkedIn's above-described conduct constituted unfair  
7 practices in violation of the UCL because the practices and acts: (a) were immoral,  
8 unethical, oppressive, unscrupulous and substantially injurious to Plaintiff and Class  
9 Members; and (b) violated established public policy. These acts caused substantial  
10 injury to Plaintiff and Class Members; this substantial injury outweighed any benefits  
11 to competition or the purpose of such conduct, and there were reasonably available  
12 alternatives to further LinkedIn's legitimate business interests.

13           285. By collecting, disclosing and using Plaintiff's and California Subclass  
14 Members' personal information in ways that Plaintiff and Class Members did not know  
15 of or consent to, Defendant LinkedIn engaged in fraudulent business practices that were  
16 likely to deceive a reasonable consumer.

17           286. A reasonable person would not have agreed to use the various third-party  
18 platforms at issue had Defendant LinkedIn not concealed, omitted and suppressed the  
19 truth about its practices, as alleged herein. By withholding material information about  
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1 its practices, LinkedIn deceived customers into using products that allowed LinkedIn  
2 to surreptitiously collect Plaintiff's and Class Members' personal information.  
3 Accordingly, LinkedIn's conduct also was fraudulent within the meaning of the UCL.  
4

5 287. As a result of Defendant LinkedIn's violations of the UCL, Plaintiff and  
6 Class Members have suffered injury-in-fact and have lost money and property. Plaintiff  
7 and Class Members are entitled to restitution and disgorgement, declaratory and other  
8 equitable relief.  
9

10 288. Moreover, Plaintiff and Class Members are entitled to injunctive relief.  
11 Unless and until enjoined and restrained by order of this Court, Defendant LinkedIn's  
12 wrongful conduct will continue to cause great and irreparable injury to Plaintiff and  
13 Class Members in that LinkedIn and others can continue to use the unlawfully obtained  
14 personal information to Plaintiff's and Class Members' detriment. Plaintiff and Class  
15 Members have no adequate remedy at law for the injuries in that a judgment for  
16 monetary damages will not end the invasion of privacy for Plaintiff and Class Members  
17 or require LinkedIn to retrieve the personal information from the unauthorized entities  
18 to which it was disclosed.  
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**COUNT EIGHTEEN**  
**TRESPASS TO CHATTELS**

**(On behalf of the Nationwide Class against all Defendants)**

289. Plaintiff restates and realleges all paragraphs of this First Amended Class Action Complaint as though fully set forth herein.

290. Defendants Facebook and LinkedIn, intentionally and without consent or other legal justification, installed code on Plaintiff's and Class Members' devices that enabled Defendants to collect, disclose and use Plaintiff's and Class Members' personal information in unauthorized ways and for unauthorized purposes.

291. Defendants' conduct as alleged in the paragraph above interfered with Plaintiff's and Class Members' use of the following property owned by Plaintiff and Class Members: (a) their computers; (b) their mobile devices; and (c) their personal information.

292. Plaintiff and Class Members have suffered injuries as a result of Defendants' conduct, and they are entitled to appropriate relief, including compensatory damages.

LOEVY & LOEVY  
Attorneys at Law

**COUNT NINETEEN**  
**UNJUST ENRICHMENT**

**(On behalf of all Classes against Defendant Facebook)**

293. Plaintiff restates and realleges all paragraphs of this First Amended Class Action Complaint as though fully set forth herein.

294. Plaintiff and Class Members conferred a monetary benefit on Defendant Facebook – namely, among other things, Facebook used their personal information to amass increasingly detailed profiles of Plaintiff and Class Members and used those profiles to increase its advertising revenues.

295. Plaintiff and Class Members did not authorize or otherwise consent to Defendant Facebook unlawfully intercepting and/or using their personal information.

296. Defendant Facebook appreciated, accepted and retained the benefit bestowed upon it under inequitable and unjust circumstances arising from Facebook's conduct toward Plaintiff and Class Members as described herein – namely: (a) Plaintiff and Class Members conferred a benefit on Facebook, and Facebook accepted or retained that benefit; and (b) Facebook used Plaintiff's and Class Members' personal information for business purposes – namely, it intercepted and/or used the information to increase its advertising revenues.

297. Defendant Facebook did not provide full compensation for the benefit Plaintiff and Class Members conferred upon it.

1           298. Defendant Facebook acquired Plaintiff's and Class Members' personal  
2 information through inequitable means in that it surreptitiously obtained the  
3 information to Plaintiff's and Class Members' detriment.

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5           299. Plaintiff and Class Members have no adequate remedy at law.

6           300. Under the circumstances, it would be unjust and unfair for Defendant  
7 Facebook to be permitted to retain any of the benefits that Plaintiff and Class Members  
8 conferred on it.

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10           301. Under the principles of equity and good conscience, Defendant Facebook  
11 should not be permitted to retain the personal information belonging to Plaintiff and  
12 Class Members because Facebook obtained that information under false pretenses.

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14           302. Defendant Facebook should be compelled to disgorge into a common fund  
15 or constructive trust, for the benefit of Plaintiff and Class Members, proceeds that it  
16 unjustly received from the sale of Plaintiff's and Class Members' personal information.

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18                                   **COUNT TWENTY**  
19                                   **UNJUST ENRICHMENT**  
20                                   **(On behalf of all Classes against Defendant LinkedIn)**

21           303. Plaintiff restates and realleges all paragraphs of this First Amended Class  
22 Action Complaint as though fully set forth herein.

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24           304. Plaintiff and Class Members conferred a monetary benefit on Defendant  
25 LinkedIn – namely, among other things, LinkedIn used their personal information to  
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1 increase the revenues derived from Navigator to increase the sales of its other services  
2 and products.

3 305. Plaintiff and Class Members did not authorize or otherwise consent to  
4 Defendant LinkedIn unlawfully intercepting, using and/or disclosing their personal  
5 information.  
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7 306. Defendant LinkedIn appreciated, accepted and retained the benefit  
8 bestowed upon it under inequitable and unjust circumstances arising from LinkedIn's  
9 conduct toward Plaintiff and Class Members as described herein – namely: (a) Plaintiff  
10 and Class Members conferred a benefit on LinkedIn, and LinkedIn accepted or retained  
11 that benefit; and (b) LinkedIn used Plaintiff's and Class Members' personal information  
12 for business purposes – namely, it intercepted, used and/or disclosed the information to  
13 generate increased revenues.  
14

15 307. Defendant LinkedIn did not provide full compensation for the benefit  
16 Plaintiff and Class Members conferred upon it.  
17

18 308. Defendant LinkedIn acquired Plaintiff's and Class Members' personal  
19 information through inequitable means in that in that it surreptitiously obtained the  
20 information to Plaintiff's and Class Members' detriment.  
21

22 309. Plaintiff and Class Members have no adequate remedy at law.  
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312. Defendant LinkedIn should be compelled to disgorge into a common fund or constructive trust, for the benefit of Plaintiff and Class Members, proceeds that it unjustly received from the sale of Plaintiff's and Class Members' personal information.

WHEREFORE, Plaintiff Todd Hurvitz, on behalf of himself and on behalf of the all Class Members, respectfully seeks from the Court the following relief:

- a. Certification of the Classes as requested herein;
- b. Appointment of Plaintiff as Class representative and his undersigned counsel as Class counsel;
- c. Award Plaintiff and members of the proposed Classes compensatory, statutory and punitive damages;
- d. Award Plaintiff and members of the proposed Classes equitable, injunctive and declaratory relief;

- 1 e. Award Plaintiff and members of the proposed Classes pre-judgment  
2 and post-judgment interest as permitted by law;  
3  
4 f. Award Plaintiff and members of the proposed Classes reasonable  
5 attorneys' fees and costs of suit; including expert witness fees; and  
6  
7 g. Award Plaintiff and members of the proposed Classes any further  
8 relief the Court deems proper.

9 **DEMAND FOR JURY TRIAL**

10 Plaintiffs demand a jury trial on all claims so triable.

11 Dated: May 12, 2020

12 Respectfully submitted,

13 TODD HURVITZ

14  
15 By: /s/ Scott R. Drury  
16 SCOTT R. DRURY  
17 *One of Plaintiff's Attorneys*

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*Counsel for Plaintiff*

LOEY & LOEY  
Attorneys at Law

**CERTIFICATE OF SERVICE**

Scott R. Drury, an attorney, certifies that on May 12, 2020, he served a true and correct copy of the foregoing document using the Court's CM/ECF system, which effected service on all counsel of record.

/s/ Scott R. Drury

SCOTT R. DRURY